U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

A2

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: NOV 15 2005

IN RE: Applicant: [redacted]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Director, Texas Service Center, who certified her decision to the Administrative Appeals Office (AAO) for review. The Director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act (CAA) of November 2, 1966. The CAA provides, in part:

> [T]he status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, (now the Secretary of Homeland Security, (Secretary)), in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The Acting Director determined that the applicant was not eligible for adjustment of status because he failed to present documentation required by law to adjust his status and denied the application accordingly. *See Acting Director's Decision* dated June 11, 2005.

The regulation at 8 C.F.R. § 245.2(a) states in pertinent part:

> (3) Submission of documents.-
>
> > (iv) Under the Act of November 2, 1966. An application for adjustment of status is made on Form I-485A. . . . . The application must include a clearance from the local police jurisdiction for any area in the United States when the applicant has lived for six months or more since his or her 14th birthday.

The record reflects that on October 19, 2004, and February 25, 2005, the Director requested that the applicant submit a letter of clearance from the police department or sheriff's office from every city in the United States where he resided for six months or more, giving the applicant twelve weeks to respond. The applicant submitted a letter from the Las Vegas Metropolitan Police Department and a fingerprint chart (Form FD-268) from the FBI in order to demonstrate that he has no criminal record. The record of proceedings reflects that the applicant resided in Miami and Ft. Lauderdale, Florida for a period of six months or more in each city. The applicant failed to submit police letters of clearance from the Miami or Ft. Lauderdale police departments or sheriff's offices, and the application for adjustment of status was denied.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the Director's findings. The applicant submits a letter in which he states that he did not receive the October 19, 2004 letter because he had moved to Las Vegas. In addition, he states that in order to get the police clearance letters from the police departments in Miami and Ft. Lauderdale he must be there in person, and he does not have the money to travel to Florida. Furthermore, the applicant states that the letter dated February 25, 2005, states that it was not necessary to submit his criminal records from Miami and Ft. Lauderdale. Finally, the

applicant requests that the AAO contact the police departments in Miami and Ft. Lauderdale in order to verify that he does not have a criminal record.

A review of the record of proceedings does not reveal that the letter dated February 25, 2005 says that the applicant's police clearance letters from Miami and Ft. Lauderdale are not needed. It only mentions that the actual dates of residency in Miami must be verified in order to see if a police letter from Miami-Dade County was necessary. In addition, the letter clearly states that only letters from the police department or the sheriff's office will be accepted. It is the applicant's responsibility to submit all pertinent documents with his application.

Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. He failed to meet that burden within the required time frame after a Request for Evidence was issued. The decision of the Director to deny the application will be affirmed.

This decision, however, is without prejudice to the filing of a new application for adjustment of status, along with the proper documentation and the appropriate fee.

ORDER: The District Director's decision is affirmed.